

No. 12-1311 RV

1. Gronauer resided within the city limits of Columbia, Missouri, at all times relevant to these findings.

Dodge

2. On July 25, 2009, Gronauer purchased a motor vehicle, a 2004 Dodge, from a motor vehicle dealer in Missouri for a net price of \$8,500.00.¹
3. On August 21, 2009, Gronauer registered the Dodge at a license office (“the license office”).
4. Although Gronauer provided his correct address to the license office when he registered the Dodge, the license office determined that he owed Boone County local sales tax -- 1.325 % -- on his purchase of the Dodge instead of City of Columbia local sales tax, which is 3.325 %.
5. Thus, Gronauer paid Missouri state sales tax on the net purchase price of the Dodge in the amount of \$359.13, reflecting the State’s sales tax rate of 4.225%, and Boone County sales tax on the net purchase price of the Dodge in the amount of \$112.63.

GMC

6. On January 30, 2010, Gronauer purchased a motor vehicle, a 2010 GMC, from a motor vehicle dealer in Missouri for a net price of \$10,426.95.²
7. On February 4, 2010, Gronauer registered the GMC at the license office.
8. Although Gronauer provided his correct address to the license office when he registered the GMC, the license office determined that he owed Boone County local sales tax -- 1.125 % -- on his purchase of the GMC instead of City of Columbia local sales tax, which is 3.125 %.

¹ There is no evidence in the record where the dealer was located. With no evidence to the contrary, and because Gronauer has the burden of proof in this proceeding, we infer that the dealer was located in Missouri.

² Id.

9. Thus, Gronauer paid Missouri state sales tax on the net purchase price of the GMC in the amount of \$440.54, reflecting the State's sales tax rate of 4.225%, and Boone County sales tax on the net purchase price of the GMC in the amount of \$117.30.

Audit

10. The City of Columbia audited the license office. The audit determined that Gronauer paid local sales tax at the lower rate imposed by Boone County, instead of the higher rate applicable in the City of Columbia, on his vehicle purchases.

11. On June 22, 2012, the Director issued two separate final decisions assessing Gronauer additional local sales tax in the amount of \$170.00 for the Dodge and \$208.54 for the GMC. These were the differences between local sales tax in Columbia and local sales tax in Boone County on each of his purchases.

12. Gronauer timely appealed the Director's final decisions.

Conclusions of Law

We have jurisdiction to hear Gronauer's complaint.³ Gronauer has the burden to prove he is not liable for the amount that the Director assessed.⁴ Our duty in a tax case is not merely to review the Director's decision, but to find the facts and to determine, by the application of existing law to those facts, the taxpayer's lawful tax liability for the period or transaction at issue.⁵ We may do whatever the law permits the Director to do, and we must do what the Director must do.⁶

Section 144.070.1, RSMo Supp. 2012, provides:

At the time the owner of any new or used motor vehicle, trailer, boat, or outboard motor which was acquired in a transaction

³ Section 621.050.1. Statutory references, unless otherwise noted, are to RSMo 2000.

⁴ Sections 621.050.2 and 136.300.2.

⁵ *J.C. Nichols Co. v. Director of Revenue*, 796 S.W.2d 16, 20-21 (Mo. banc 1990).

⁶ *State Bd. of Regis'n for the Healing Arts v. Finch*, 514 S.W.2d 608, 614 (Mo. App., W.D. 1974).

subject to sales tax under the Missouri sales tax law makes application to the director of revenue for an official certificate of title and the registration of the motor vehicle, trailer, boat, or outboard motor as otherwise provided by law, the owner shall present to the director of revenue evidence satisfactory to the director of revenue showing the purchase price exclusive of any charge incident to the extension of credit paid by or charged to the applicant in the acquisition of the motor vehicle, trailer, boat, or outboard motor, or that no sales tax was incurred in its acquisition, and if sales tax was incurred in its acquisition, the applicant shall pay or cause to be paid to the director of revenue the sales tax provided by the Missouri sales tax law in addition to the registration fees now or hereafter required according to law, and the director of revenue shall not issue a certificate of title for any new or used motor vehicle, trailer, boat, or outboard motor subject to sales tax as provided in the Missouri sales tax law until the tax levied for the sale of the same under sections 144.010 to 144.510 has been paid as provided in this section or is registered under the provisions of subsection 5 of this section.

Section 144.069 provides:

All sales of motor vehicles, trailers, boats and outboard motors shall be deemed to be consummated at the address of the owner thereof, and all leases of over sixty-day duration of motor vehicles, trailers, boats and outboard motors subject to sales taxes under this chapter shall be deemed to be consummated unless the vehicle, trailer, boat or motor has been registered and sales taxes have been paid prior to the consummation of the lease agreement at the address of the lessee thereof on the date the lease is consummated, **and all applicable sales taxes levied by any political subdivision shall be collected on such sales by the state department of revenue on that basis.**

(Emphasis added). Thus, when the purchaser of a motor vehicle registers that vehicle, he or she must pay all applicable taxes, including all sales taxes levied by a political subdivision. The local sales taxes are determined by the owner's address because § 144.069 deems any such sale to be consummated there.

Finally, § 32.087.13, RSMo Supp. 2012, provides:

Local sales taxes imposed pursuant to the local sales tax law on the purchase and sale of motor vehicles, trailers, boats, and

outboard motors shall not be collected and remitted by the seller, but **shall be collected by the director of revenue at the time application is made for a certificate of title, if the address of the applicant is within a taxing entity imposing a local sales tax under the local sales tax law.**

(Emphasis added). Gronauer lived within the City of Columbia when he registered the Dodge and the GMC. The City of Columbia imposed a higher local sales tax than Boone County on the purchase of motor vehicles. Gronauer paid local sales tax at Boone County's lower rate because that is what the license office instructed him to pay.

Gronauer registered his vehicles and paid the tax, believing he had discharged his duty. Two years later, he received a notice telling him he owed additional tax. This was, undoubtedly, an unpleasant surprise. Although the notice of assessment failed to state it, his underpayment of local sales tax was due to a mistake made by the license office. Gronauer believes the license office should be responsible for paying the additional taxes, which is a position with which we empathize.

Unfortunately, we are unable to exempt Gronauer's liability for the additional tax. Because this Commission was created by state statutes, we have only such authority as the statutes give us.⁷ Neither the Director, his employees, nor this Commission has the power to change the law.⁸ The law provides that all applicable sales taxes, including all local sales taxes, must be paid when a vehicle is registered. Gronauer did not pay the Columbia local sales tax when he registered his vehicles. He must do so now. He is entitled to a credit against this amount of \$229.93, the amount he paid for Boone County's local sales tax.

⁷ *State Bd. of Reg'n for the Healing Arts v. Masters*, 512 S.W.2d 150, 161 (Mo. App., K.C.D. 1974).

⁸ *Lynn v. Director of Revenue*, 689 S.W.2d 45, 49 (Mo. banc 1985).

Summary

Gronauer is liable for an additional \$378.54 in local sales tax on his purchase of two motor vehicles.

SO ORDERED on May 13, 2013.

\s\ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner